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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,024	07/25/2003	Michael P. Wallace	03-248 (US01)	3679
41696 7590 05/07/2007 VISTA IP LAW GROUP LLP 12930 Saratoga Avenue Suite D-2 Saratoga, CA 95070			EXAMINER JOHNSON III, HENRY M	
			ART UNIT	PAPER NUMBER
			3739	
			MAIL DATE	DELIVERY MODE
			05/07/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/627,024

Applicant(s)

WALLACE, MICHAEL P.

Examiner

Henry M. Johnson, III

Art Unit

3739

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) ____ is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-9, 11, 13, 14, 16-23, 59 and 60 is/are allowed.
- 6) ☒ Claim(s) 1, 10, 24-29, 31, 32, 34-39, 41-44, 47-49, 51, 52, 54-58 and 61-64 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 May 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application
- ☐ Other: ____.

Response to Arguments

Applicant's arguments filed February 26, 2007 have been fully considered but they are not persuasive. The term catheter is used widely in the medical arts and prior art patents to refer to flexible tubes introduced into a body cavity. Such tubes may have closed ends and include active elements like energy or cryoablation members, or have open ends for delivery of medicaments or for use with a guidewire. Multiple channels or lumens are common and pervasive. Thus the structures of Anidjar et al. and Sepetka et al. are correctly interpreted as catheters.

The implants of Guglielmi et al. can arguably be interpreted as partially closing the neck of an aneurysm. U.S. Patent Application Publication US 2002/0120297 to Shadduck is introduced as another teaching for multiple implants for closing an aneurysm, with two implants placed at right angles to each other, either of which would partially close the opening to the aneurysm.

Regarding the system claims, the positioning of the implants relates to the intended use of the device and does not impose limitations on the device structure.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 10, 24-29, 31, 32, 34-44, 47-49, 51, 52, 54-58 and 61-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,360,723 to Anidjar et al. in view of U.S. Patent 5,814,062 to Sepetka et al. and further in view of U.S. Patent Application Publication US

Art Unit: 3739

2002/0120297 to Shadduck. Anidjar et al. and Sepetka et al. disclose catheters for the intra-vascular deployment of implants. Anidjar et al. disclose an apparatus and method for implanting a vascular prosthesis wherein a guidewire (Fig. 3, # 31) is used to guide an introducing tube (first member or catheter) and introducing means (second member or catheter) to the treatment site. The introducing means (Fig. 3, # 33) is interpreted as the second member and is inside the introducing tube (Fig. 3, # 39), the first member. Both have proximal and distal portions and the distal portions are positioned over the guidewire (Col. 7, lines 40-44), thus establishing each has cavities or lumens. The introducing means is withdrawn (Col. 7, lines 47-48) and a catheter with the implant is pushed into the introducing tube (Col. 8, lines 8-15). With the second member between the first member and the guidewire, it is inherent it would reduce radial movement. The implant may be a stent (abstract) that inherently acts as a containment implant. Anidjar et al. do not disclose removing the guidewire with the second member. Sepetka et al. teach an occlusive implant delivery assembly with a catheter (Fig. 4, #4) positioned by a guidewire that is withdrawn after positioning (Col. 8, lines 10-15), and occlusion coils delivered by the lumen of the catheter by a hollow pushrod (Fig. 4, # 26). The pushrod, having a lumen, is interpreted as a catheter or second member. Sepetka et al. teach the size of the device is dependent on the size of the vascular structure (Col. 7, lines 15-27) and specifically discloses use with vessels of from 2-5 millimeters and deep brain vascular sites (Col. 5, line 53). Neither Anidjar et al. nor Sepetka et al. teach the use of multiple implants. Shadduck discloses implants for treating aneurysms that are introduced using a catheter to the site of the aneurysm (Fig. 3). Shadduck discloses that any number of implants may be used (paragraph 0077). Shadduck teaches two implants within the aneurysm sac at right angles to each other (Fig. 10C, # 210). The first would inherently reduce the width of the neck of the sac and the second would block removal of the first, thus retaining it in place. It is noted for the record that other teachings for retaining an

Art Unit: 3739

occlusion device in an aneurysm are known; i.e. U.S. Patent 6,663,706 to Slaikou that uses a stent to retain an occlusion coil and U.S. Patent 5,916,235 to Guglielmi et al. that uses a cage device to retain an occlusion coil. It would have been obvious to one skilled in the art to use multiple implants as taught by Shadduck in the invention of Anidjar et al. in view of Sepetka et al. that provide delivery devices for implants to better fill an aneurysm sac

Claims 31, 32, 34, 35, 51, 52, 54 and 55 are based on the size of the device. The intended use of the prior art is similar rendering it obvious to a skilled artisan to size the device as appropriate. A change in the size of a prior art device is a design consideration within the skill of the art. In re Rose, 220 F.2d 459, 105 USPQ 237 (CCPA 1955).

Claims 36-38, 44, 46 and 56-58 are based on intended use without impact on the device structure.

Regarding claims 41-43, the device of Anidjar et al. provides multiple catheters within axial lumens that are clearly capable of being advanced together or separately as required or desired by the operator.

Allowable Subject Matter

Claims 4-9, 11, 13, 14, 16-23 and 59-60 are allowed.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

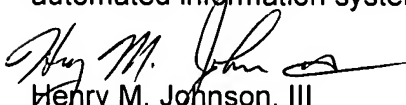
Art Unit: 3739

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Henry M. Johnson, III whose telephone number is (571) 272-4768. The examiner can normally be reached on Monday through Friday from 6:00 AM to 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Henry M. Johnson, III
Primary Examiner
Art Unit 3739